



September 11, 2024

The Honorable Julia R. Gordon  
Assistant Secretary for Housing / Federal Housing Commissioner  
U.S. Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW  
Washington, DC 20410

Dear Commissioner Gordon:

The National Council of State Housing Agencies (NCSHA), on behalf of the nation's state Housing Finance Agencies (HFAs) and all state Housing Credit Agencies, supports the U.S. Department of Housing and Urban Development's (HUD) proposal to require developers applying for new allocations of Low Income Housing Tax Credit authority to waive the qualified contract option for those properties as a condition of participating in the Federal Housing Administration (FHA) Multifamily rental and Risk Share insurance programs.<sup>1</sup> This policy change will safeguard the long-term affordability of these rental homes.

NCSHA has long sought to ensure that Housing Credit properties remain affordable and income-restricted for each individual development's full extended use period and are not lost from the inventory early through the qualified contract process. In 2017, NCSHA adopted a recommended practice encouraging state Housing Credit Agencies to require owners to waive the qualified contract option. Most now either require or incentivize a waiver for both 9 percent and 4 percent Housing Credit programs.

Unfortunately, many older properties financed before states adopted qualified contract waiver policies still have the ability to exercise a qualified contract request, allowing the owner to exit the program after as little as 15 years. According to NCSHA data, approximately 115,000 units have been lost due to qualified contracts as of this year. Every year, between 6,000 and 10,000 units are lost to the affordable stock prematurely when owners exercise the qualified contract option.

Given these ongoing losses, we urge HUD to expand its proposal to also bar owners of existing developments for which they retain the qualified contract option from accessing FHA Multifamily rental and Risk Share insurance if they exercise the qualified contract option after December 31, 2024. As with HUD's current proposal, this prohibition should extend only to FHA Multifamily rental projects for which a firm commitment has not been issued and Risk Share insurance transactions with Firm Approval Letters issued on or after December 31, 2024.

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<sup>1</sup> NCSHA is a nonprofit, nonpartisan organization. None of NCSHA's activities related to federal legislation or regulation are funded by organizations that are prohibited by law from engaging in lobbying or related activities.

By taking these actions, HUD joins the Federal Housing Finance Agency and the U.S. Department of Agriculture in mitigating future qualified contract losses. NCSHA is grateful to HUD for its leadership.

Sincerely,

A handwritten signature in black ink, reading "Jennifer Schwartz". The signature is written in a cursive style with a large initial "J" and a long, sweeping underline.

Jennifer Schwartz  
Director of Tax and Housing Advocacy